

UNITED STATES BANKRUPTCY COURT
Western District of Missouri

In Re:)	
)	
Gregory Wade Jennings)	Case No. 17-20106
)	
Debtor(s),)	Chapter 13
_____)	
)	
Gregory Wade Jennings)	
)	
)	
Movant(s),)	
v.)	
)	
Heights Finance Corp)	
)	
Respondent(s).)	

DEBTORS' MOTION TO AVOID LIEN

COMES NOW Debtor, Gregory Wade Jennings by and through counsel, and hereby moves the Court pursuant to Bankruptcy Code § 522(f)(2) and Bankr. Rule 4003(d) and 9104 for an Order avoiding the lien held by Heights Finance Corp as follows:

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C.A. § 1334(a). This matter is a core proceeding as described in 28 U.S.C.A. § 157(b)(2)(K).
2. The Debtor commenced a voluntary bankruptcy case seeking relief under Chapter 13 of the Bankruptcy Code on February 8, 2017.
3. The following property is "property of the bankruptcy estate" as such term is defined in 11 U.S.C.A. § 541 (hereinafter the "Property"):

Household Goods & Jewelry	Value
2 Televisions, DVD Player, 2 Cell phones, 50 DVD movies, Surround Sound, Auto Repair Equipment & Tools, Gas Grill, Laptop, Motorcycle & Camera	\$1,000.00

TOTAL VALUE OF HOUSEHOLD GOODS	\$1,000.00
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4. The Property is subject to the following liens (e.g., real estate taxes, mortgages, judicial liens and security interests):
 - a. Non-Purchase Money Security obtained by Heights Finance Corp in February 2013 in the amount of \$3,269.00.
5. The Debtor is entitled to exemptions in the Property in the amount of \$3,000.00 pursuant to RSMo § 513.430.1(1) for the household goods.
6. Section 522(f)(2)(A) of the Bankruptcy Code provides that “a lien shall be considered to impair an exemption to the extent that the sum of: (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any liens.” Section 522(f)(2)(B) provides that “[i]n the case of a property subject to more than one lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.”
 - a. Adds the lien being tested for avoidance (“L1”) in the amount of \$3,269.00, [all other liens against the same Property (“L2 + L3 + L4 ...”)] in the amount of \$0.00, and the maximum exemption allowable in the absence of liens (“E”) in the amount of \$3,000.00. In this case, the sum of these liens and the exemption equals \$6,269.00.
 - b. Subtracts from the sum computed above the value of the Property in the absence of any liens (“V”) equaling \$5,269.00.
7. Applying the formula set forth above for determining whether a lien impairs an exemption, the Debtor:
 - a. The extent of the impairment as shown in Paragraph 6.b. above is \$5,269.00 (the “Impairment”).
 - b. Since the Impairment exceeds the entire value of the amount of the Respondent's lien, the Debtor prays that this Court order that the entire lien is avoided on the following items: 2 Televisions, DVD Player, 2 Cell phones, 50 DVD movies, Surround Sound, Auto Repair Equipment & Tools, Gas Grill, Laptop, Motorcycle & Camera
Location: 309 W Sims, Centralia MO 65240.

WHEREFORE, Debtor prays that this Court enter its Order avoiding the entire lien of Respondent, on the following items: 2 Televisions, DVD Player, 2 Cell phones, 50 DVD movies, Surround Sound, Auto Repair Equipment & Tools, Gas Grill, Laptop, Motorcycle & Camera, and that the claim be reset to unsecured.

Dated: February 20, 2017

Respectfully submitted,

YOUNG LEGAL SERVICES, LLC

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Attorney for Debtor(s)

Certificate of Service

A copy of the Motion to Avoid Lien was served via the Court's electronic means and/or mailed postage prepaid on or about February 20, 2017, to the Chapter 13 Trustee and the following creditors and/or parties in interest:

Creditor

Heights Finance Corp
1117 Columbia Ave Ste B
Franklin, TN 37064

Registered Agent

National Registered Agents Inc
120 S Central Ave Ste 400
Clayton, MO 63105-1705

Additional Notice

The US Trustee
400 E 9th Street, Rm 5510
Kansas City, MO 64106

/s/ Cecilia E. Young